

**House File 183 - Introduced**

HOUSE FILE 183

BY B. MEYER

**A BILL FOR**

1 An Act relating to the construction and maintenance of walkways  
2 in railroad yards, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1.   NEW SECTION.   327F.37   Railroad yard walkways —  
2   penalty.

3     1.   *Scope.*   This section applies to all railroad tracks and  
4   walkways in railroad yards in this state.   This section does  
5   not apply to tracks or walkways constructed in an industry yard  
6   owned by an entity other than a railroad corporation.

7     2.   *Definitions.*   As used in this section, unless the context  
8   otherwise requires:

9       a.   *"Department"* means the state department of  
10   transportation.

11      b.   *"Frequently"* means at least one shift per day for  
12   five days per week, or any other period the department deems  
13   frequent enough to warrant an order pursuant to subsection 5.

14      c.   *"Good cause"* includes but is not limited to a showing  
15   that compliance with this section will impose an undue hardship  
16   on the railroad corporation.

17     3.   *Standard.*   A railroad corporation shall provide walkways  
18   adjacent to those portions of railroad yard tracks where  
19   railroad employees frequently perform switching activities.

20     4.   *General requirements and recommendations.*

21       a.   (1) Walkways may be surfaced with asphalt, concrete,  
22   planking, grating, native material, crushed material, or  
23   other similar material.   Where crushed material is used, one  
24   hundred percent of the material shall be capable of passing  
25   through a one and one-half inch square sieve opening, and not  
26   less than ninety percent of the material shall be capable of  
27   passing through a one-inch square sieve opening.   A de minimus  
28   variation from these requirements shall not be a violation  
29   of this section in instances where the railroad corporation  
30   has made a good-faith effort to comply with the percentage  
31   requirements of this subparagraph.

32       (2) Crushed material smaller than that described in  
33   subparagraph (1) shall be used whenever practicable, especially  
34   in places where drainage and durability issues do not exist.  
35   Material capable of passing through a three-fourths inch square

1 sieve opening or smaller is recommended for switching lead  
2 tracks.

3     *b.* Walkways shall have a reasonably uniform surface and  
4 be maintained in a safe condition without compromising track  
5 drainage.

6     *c.* Cross slopes for walkways shall not exceed one inch of  
7 elevation for each eight inches of horizontal length in any  
8 direction.

9     *d.* Walkways shall be at least two feet wide.

10    *e.* Walkways shall be kept reasonably free of spilled fuel  
11 oil, sand, posts, vegetation, nonballast rocks, and other  
12 hazards or obstructions.

13    5. *Other tracks.* If the department finds, after notice  
14 and hearing, that railroad employees who frequently perform  
15 switching activities adjacent to a portion of track are exposed  
16 to safety hazards due to the lack of a walkway or due to the  
17 condition of a walkway constructed before July 1, 2021, the  
18 department may do one of the following:

19    *a.* Order a railroad corporation to construct a walkway  
20 adjacent to a portion of track where railroad employees  
21 frequently perform switching activities.

22    *b.* Require a railroad corporation to modify an existing  
23 walkway to conform with subsections 3 and 4 within a reasonable  
24 period of time.

25    6. *Compliance.* A railroad corporation is excused from  
26 complying with this section under any of the following  
27 circumstances:

28    *a.* During maintenance activities.

29    *b.* In the event of a derailment.

30    *c.* During periods of heavy rain, snow, or similar weather  
31 conditions, and for a reasonable time after such conditions  
32 subside to allow a return to compliance.

33    *d.* In the event of a rock slide, earth slide, washout, or  
34 similar seismic conditions, and for a reasonable time after  
35 such conditions subside to allow a return to compliance.

1     7. *Waiver.* A railroad corporation may petition the  
2 department for a waiver of any provision of this section. The  
3 department may grant a waiver of any provision of this section  
4 where the railroad corporation shows good cause.

5     8. *Enforcement.*

6     a. A person alleging a violation of this section shall  
7 attempt to address the allegation with the railroad corporation  
8 by making a written complaint to the railroad corporation. No  
9 later than thirty days after receiving the written complaint,  
10 the railroad corporation shall respond in writing to the  
11 person alleging the violation, describing what action, if  
12 any, the railroad corporation intends to take, or has already  
13 taken, to correct the alleged violation. If the railroad  
14 corporation does not respond in writing to the person alleging  
15 the violation within thirty days of receiving the complaint, or  
16 does not correct the alleged violation within ninety days of  
17 receiving the complaint, the person may file a formal complaint  
18 with the department.

19     b. A formal complaint to the department shall contain a  
20 copy of the written complaint made to the railroad corporation  
21 under paragraph "a", and a copy of the railroad corporation's  
22 written response, if any. No later than ten days after  
23 receiving the formal complaint, the department shall send  
24 written notification to the railroad corporation informing it  
25 of the complaint and its duties under this paragraph. No later  
26 than thirty days after receiving written notification, the  
27 railroad corporation shall either correct the alleged violation  
28 or contest the complaint. If the railroad corporation contests  
29 the complaint, the department shall inspect the area of the  
30 alleged violation. Upon inspection, if the department finds  
31 that a violation exists, the department shall issue an order  
32 requiring the railroad corporation to correct the violation  
33 within thirty days of receipt of the order. Upon inspection,  
34 if the department finds that a violation does not exist,  
35 the department shall deny the complaint and send written

1 notification to the parties informing them of the denial.  
 2 *c.* A party to the complaint may appeal the department's  
 3 decision by filing an appeal with the department of inspections  
 4 and appeals within ten days of being notified of the  
 5 department's decision. The department of inspections and  
 6 appeals shall render a decision on the appeal and notify the  
 7 parties of the decision in writing no more than fifteen days  
 8 after the appeal was filed. Judicial review of the decision  
 9 of the department of inspections and appeals may be sought in  
 10 accordance with chapter 17A.  
 11 9. *Penalty.* A railroad corporation who violates this  
 12 section commits a "schedule one" violation punishable  
 13 under section 327C.5. Each day a violation exists shall be  
 14 considered a separate violation.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with  
 17 the explanation's substance by the members of the general assembly.

18 This bill establishes standards and requirements for the  
 19 construction and maintenance of walkways in railroad yards.  
 20 The provisions of the bill apply to all tracks and walkways in  
 21 railroad yards in this state, but do not apply to tracks or  
 22 walkways in an industry yard owned by an entity other than a  
 23 railroad corporation.

24 The bill establishes a standard requirement for railroad  
 25 corporations to provide walkways adjacent to portions of  
 26 railroad yard tracks where railroad employees perform switching  
 27 activities at least one shift per day for five days per week.

28 The bill provides recommendations and requirements for the  
 29 type of material used for the walkways. In addition, the  
 30 bill requires that walkways be at least two feet wide, with  
 31 cross slopes of not more than one inch of elevation for each  
 32 eight inches of length in any direction. Walkways must have  
 33 a reasonably uniform surface, be maintained in safe condition  
 34 without compromising track drainage, and be kept reasonably  
 35 free of spilled fuel oil, sand, posts, vegetation, nonballast

1 rocks, and other hazards and obstructions.

2     Following an administrative hearing, the department of  
3 transportation (DOT) may order a railroad corporation to  
4 construct a walkway or alter a preexisting walkway to conform  
5 with the new requirements where the lack of a walkway or  
6 the condition of a walkway poses a safety hazard to railroad  
7 employees.

8     The bill excuses a railroad corporation from compliance with  
9 walkway requirements during maintenance activities, in the  
10 event of a derailment, during certain weather conditions, in  
11 certain seismic conditions, and for a reasonable time after  
12 such weather or seismic conditions subside to allow a return  
13 to compliance.

14     The DOT may grant a waiver of any provision of the bill to a  
15 railroad corporation upon a showing of good cause, including  
16 but not limited to a showing that compliance with the bill will  
17 impose an undue hardship on the railroad corporation.

18     A person who alleges a violation of the requirements of the  
19 bill must address the allegation with the railroad corporation  
20 by making a written complaint. If the railroad corporation  
21 does not respond to the complaint within 30 days, or does  
22 not resolve the alleged violation within 90 days, the person  
23 may file a formal complaint with the DOT. The DOT shall  
24 notify the railroad corporation of the complaint, and the  
25 railroad corporation has 30 days in which to respond, either  
26 by correcting the alleged violation or by contesting the  
27 complaint. If the railroad corporation contests the complaint,  
28 the DOT is required to inspect the area of the alleged  
29 violation. Upon a finding that a violation exists, the DOT  
30 must order the railroad corporation to correct the violation  
31 within 30 days of receipt of the order. If, following the  
32 inspection, the DOT finds that no violation exists, it must  
33 notify the parties to the complaint that the complaint is  
34 denied.

35     A party to the complaint may appeal the DOT's decision by

1 filing an appeal with the department of inspections and appeals  
2 and judicial review of the decision of the department of  
3 inspections and appeals may be sought according to Code chapter  
4 17A (Iowa administrative procedure Act).

5 A violation of the bill's provisions is a schedule one  
6 violation, punishable by a \$100 fine for each day a violation  
7 exists.